

Remarks/Arguments

Claims 1-26 are pending in this application, but claims 3, 4 and 7-24 have been withdrawn from consideration, leaving claims 1, 2, 5, 6, 25 and 26 under examination.

In the December 5, 2006 office action, the Examiner has said that all of the claims under examination are anticipated by Hummer. It appears from the Examiner's comments in the last paragraph of page 3 of the office action (where the Examiner noted that "the arguments are considered to be more limiting then what is actually claimed") that the Examiner agrees that the method and structure disclosed by Hummer are very different from the method and structure disclosed by the applicant, but it appears that the Examiner believes that the applicant's claim language is too broad. The undersigned agent has in fact attempted several times to call the Examiner to obtain a better understanding of the Examiner's position, but unfortunately the agent was not able to reach the Examiner.

In any event, claims 1 and 26 (the two independent claims of the claims under examination) have been amended and it is submitted that the claims clearly distinguish from the Hummer reference.

To clarify the argument, three sketches are attached, namely sketch 1 which is a top plan view of the sod piercing rods shown in the Hummer reference; sketch 2 which is a side view of two of the piercing rods shown in the Hummer reference, and sketch 3 which is a perspective view of a portion of one of applicant's clamps (and is a repeat of Fig. 3 of the application).

The purpose of the Hummer reference is to provide apparatus to lift and place large standardized sod sections for athletic fields (column 1, lines 5-10). It does so by piercing each sod section with a number of actuator rods which penetrate the sod at a shallow angle, so that the holes created by the rods will not be too visible from overhead (column 7, lines 40-45).

Sketch 1 shows the layout of the Hummer actuator rods 42 of actuator rows 50a, 50b, etc. As described in Hummer at column 5, lines 45-63, the actuator rods 42 are

about 0.5 inches in diameter; the spiked ends 44 for each pair of actuator rods are approximately 2 inches apart (both these dimensions are marked on sketch 1), and the actuators 40 in each group are spaced about seven inches apart from the next group. The shallow insertion angle of the actuator rods 42 is shown in sketch 2.

The direction of movement of the actuator rods 42 (which is axial) is indicated by arrows A in sketches 1 and 2.

The Examiner has said that the actuator rods 42 provide a clamp, and that the surfaces of rods 42 constitute opposing clamp side members. With respect, it is difficult to imagine how the Hummer rods 42 could possibly be thought of as forming a clamp, at least within the usual meaning of that word. However to clarify the distinctions between applicant's method and that shown in Hummer, claim 1 has been amended to state that a clamp is provided "having first and second opposing clamp side surfaces at least one of which is movable toward the other to press directly against the other clamp side surface, gripping at least an upper portion of said sod between said opposing clamp side surfaces".

The Hummer reference lacks the above recited features. Specifically, no side surface of a rod 42 moves toward a side surface of another rod 42 in Hummer. Instead, the rods 42 move axially, parallel to but spaced from each other, and past each other.

In addition, no rod 42 presses directly against another rod 42. Instead, as mentioned, the rods 42 move axially, in parallel to each other and past each other. Since they are spaced well apart (the rods 42 are only 0.5 inches diameter and are spaced 2 inches apart), they "miss" contacting each other by a wide margin.

In contrast, in the applicant's method as claimed in claim 1, at least one clamp side surface moves toward the other to press directly against the other, gripping at least an upper part of the sod between the opposing clamp side surfaces. This is completely different from the spearing action of the Hummer mechanism.

It may be that the Examiner's position is that the Hummer rods 42 are pressing against each other indirectly, through the earth/root between them. (However the

Examiner has not said this, and because the earth/root portion of sod does not transmit compressive forces very well, and because the Hummer rods 42 are narrow and are spaced well apart, any compressive force existing in the earth between the rods 42 would be negligible.) However even if there were such a force, the side surfaces of neither Hummer rod 42 move toward the other; instead the side surfaces of Hummer rods 42 move parallel to each other. In addition, the side surfaces do not press "directly" against each other.

From a practical viewpoint, the Hummer reference teaches lifting and supporting sod by spearing it with a number of spaced-apart rods (which never touch each other) inserted at a shallow angle, effectively to lift the sod by supporting the entire thickness of the earth and root structure. Hummer does not teach clamping anything, and certainly does not even remotely teach clamping an upper portion of the sod (such as the grass blades) between clamp side surfaces which can press directly against each other (as shown throughout the applicant's specification).

Similarly, claim 26 specifies that opposing clamp surfaces are pressed directly against each other to grip the grass blades in order to suspend the sod by the grass blades. Hummer does not disclose pressing opposing clamp surfaces directly against each other to grip the grass blades between them. Hummer also fails to teach suspending sod by its grass blades. Instead, Hummer's many shallow angle rods, which fully penetrate the sod, effectively support the sod from its bottom. It is therefore submitted that claim 26 also distinguishes from Hummer.

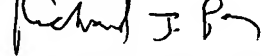
It is further submitted that claims 2, 5, 6 and 25 are patentable for the same reasons as claim 1.

If the Examiner believes that any further claim amendments are needed to distinguish from Hummer, which as a practical matter shows a totally different method and apparatus from those of the applicant, it would be appreciated if he would telephone, collect if necessary, to Richard Parr at (416) 364-7311 so that any such concerns which the Examiner may have can be addressed.

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Reply to Office action of December 5, 2006

A separate letter is enclosed requesting continued examination and requesting a one month extension of time to respond. The required fees are also enclosed.

Respectfully submitted,
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By 

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